The Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12)

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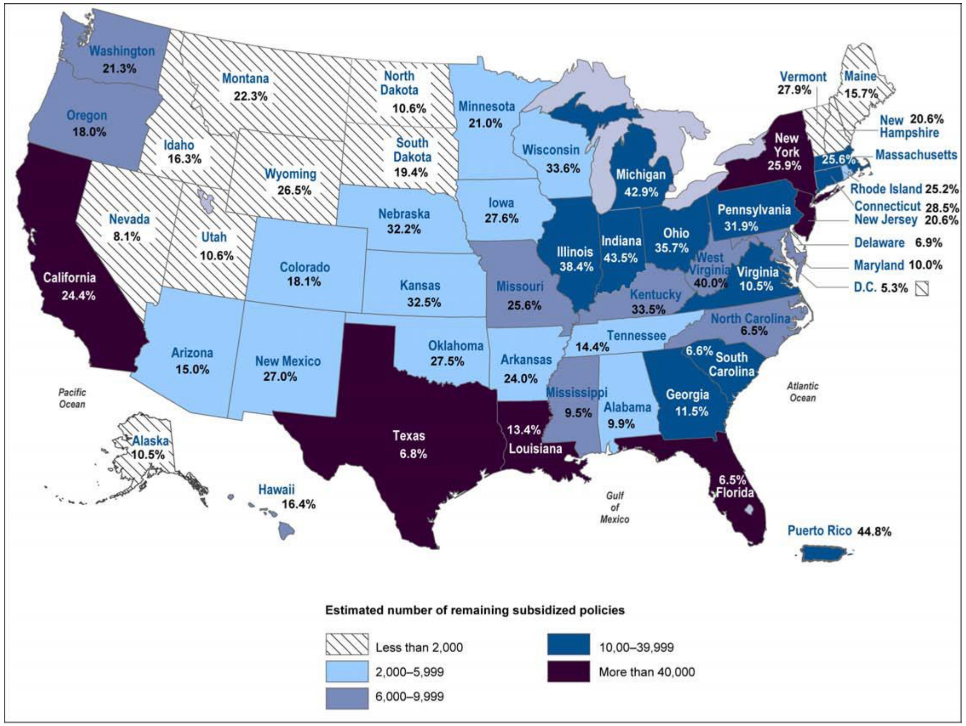
Dewberry
11/21/2013

Biggert-Waters Reform Act of 2012 (BW-12)

"**Congress** determined that further reforms were needed to make sure the NFIP was **financially sustainable**. To execute these reforms, Congress passed the Biggert-Waters Act [**BW 12**]. The law required **changes to all of the major components** of the program, including flood insurance, flood hazard mapping, grants and the management of floodplains. Many of the changes are designed to strengthen the **fiscal soundness** of the NFIP by ensuring that flood insurance rates **more accurately reflect the real risk of flooding**. The changes are being phased in over time, beginning this year."

- FEMA Administrator Craig Fugate: Testimony before Congress on 9/17/13



Sources: GAO analysis of FEMA data; Map Resources (map).

Roughly **20%** of the 5.5 million flood insurance policies **nationwide** are subsidized

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Biggert-Waters Reform Act of 2012 (BW-12)

- NFIP was **$18 billion** in debt after Katrina
- NFIP Reform effort in 2011: goal to make the **NFIP financially stable**
- Outcome: move towards actuarial rates to **reflect true flood risk**
- **Hurricane Sandy** hit in October 2012
- NFIP now over **$30 billion** in debt
- BW 12 will trigger **rate increases** for certain properties in **SFHAs**
- Key sections: **205** & **207** (others still important)

Image of Pre-FIRM and Post FIRM homes in coastal New Jersey after Hurricane Sandy

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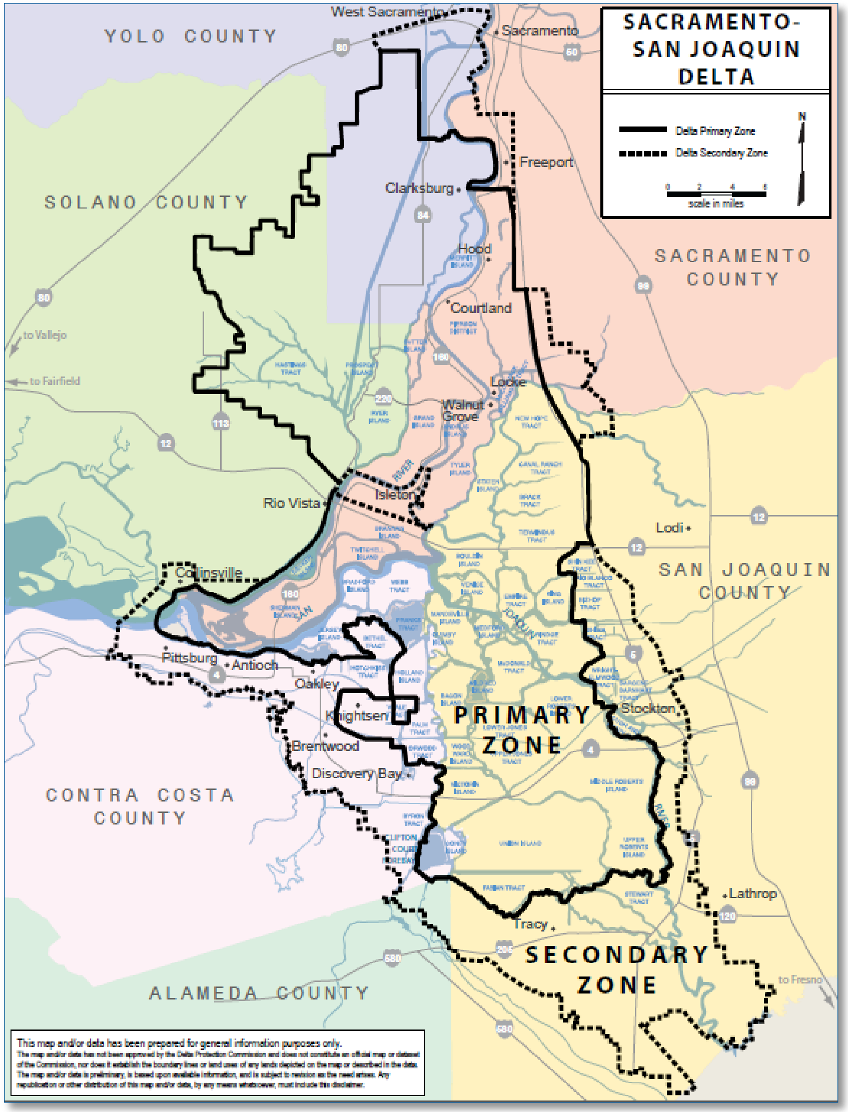
Biggert-Waters Reform Act of 2012 (BW-12)

- **<u>Section 205</u> will eventually eliminate <u>subsidized</u> rates**
  - Non-primary residences
  - Commercial properties
  - Repetitive loss properties
  - Substantial damage
  - Substantial improvements
  - New policies purchased after BW 12

- **<u>Section 207</u> addresses <u>“grandfathered”</u> rates**
  - FEMA is still considering how to implement Sec. 207
    - Implementation not until **Oct 2014**
    - May be delayed longer by new legislation (“HFIA of 2013”)



Summary of Changes to Flood Insurance Rates

- **Section 205 will eventually eliminate subsidized rates**
  - Transition period: Increase in rates over time until “true risk” rates are achieved
    - 25% annual rate increase until rates reflect “true risk”
    - May take more than 5 years or less than 5 years depending on current rate
    - Some Pre-FIRM primary residences may be eligible for PRP extensions
      - “Premiums for PRP Eligibility Extension policies will increase 20%/ year until reach the full rates for Zone X”
      - Other Pre-FIRM primary residences will see average rate increases of 16-17% based on actuarial rates and Reserve Fund contributions
  - As of October 1, 2013, Section 205 is already in effect
    - Most existing policies will see premium increases at time of renewal
    - Immediate shift to actuarial rates for the following policies:
      - New policies (i.e., property was not insured when BW 12 went into effect)
      - Properties purchased after BW 12 went into effect
      - SRL properties that refuse to accept offer for mitigation
      - Lapsed policies

BW-12 Quick Reference Guide

(Subsidized Pre-FIRM Buildings in SFHAs)

BW-12 QUICK REFERENCE GUIDE

FEMA

	Pre-FIRM Primary or Non-primary Residence or Business	Pre-FIRM Residence or Business With a Lapsed Policy	Pre-FIRM Primary Residence	Pre-FIRM Non-primary Residence	Pre-FIRM Severe Repetitive Loss or Cumulative Payments Exceeding Fair Market Value	Pre-FIRM Business**
Policy Effective Date	Policy first in effect *on or after* July 6, 2012*	Policy reinstated *on or after* October 4, 2012	Policy in effect *before* July 6, 2012	Policy in effect *before* July 6, 2012	Policy in effect *before* July 6, 2012	Policy in effect *before* July 6, 2012
Premium Change (when and how)	**October 1, 2013:** • Immediate shift to full-risk rates • Tentative rates available for 1 year • Elevation Certificate required	**October 1, 2013:** • Immediate shift to full-risk rate • Tentative rates available for 1 year • Elevation Certificate required	**October 1, 2013:** Average increases of 16-17 percent increases within the 20 percent cap authorized by law	**January 1, 2013:** • 25 percent premium increase at renewal • Elevation Certificate needed to determine full-risk rate	**October 1, 2013:** • 25 percent premium increase at renewal • Elevation Certificate needed to determine full-risk rate	**October 1, 2013:** • 25 percent premium increase at renewal • Elevation Certificate needed to determine full-risk rate
	Future: Increases based on actuarial analysis and the Reserve Fund	**Future:** Increases based on actuarial analysis and the Reserve Fund	**Future:** Increases based on actuarial analysis and the Reserve Fund	**Future:** 25 percent annual increases until full-risk rates are reached	**Future:** 25 percent annual increases until full-risk rates are reached	**Future:** 25 percent annual increase until full-risk rates are reached
All Pre-FIRM Buildings						
Map Changes	FEMA is still analyzing the impacts section 100207 of BW-12 will have on rates other than pre-FIRM subsidized premiums upon the effective date of a new, revised,or updated FIRM. For now, grandfathering and the Preferred Risk Policy Eligibility Extension remain cost-saving options for policyholders when maps are updated.					

* Assignment of an NFIP policy is allowed. However, the assignment of an NFIP policy from a seller to a buyer occurring on or after July 6, 2012, could require re-rating and an Elevation Certificate for the buyer if it is currently rated with a subsidized rate (e.g., not a standard Zone X or PRP rate).

** BW-12 calls for increases to business properties. Businesses are included in a larger group of non-residential properties. Consequently, all subsidized pre-FIRM policies for non-residential properties will see the same increase upon purchase or renewal on or after October 1, 2013.

BW-12 Quick Reference Guide
(Subsidized Pre-FIRM Buildings in SFHAs)

- **PRP Eligibility Extension**
  - Allows policy holders to retain PRP rates
  - PRP premiums will increase by 20%/yr until reach full rates for Zone X
- **Grandfathering**
  - Policies mapped into higher risk areas in new FIRMs can qualify
  - Process allows rates to remain same as those for previous zone
  - Pre-FIRM properties grandfathered using Zone X standard rates will not increase due to subsidy phase-outs
  - Premiums will still increase due to actuarial analysis and NFIP Reserve Fund contribution
- **Further Guidance**
  - Grandfathering and PRP Eligibility Extensions will remain in force until new guidance is released in 2014 (or new legislation goes into effect)

MAP CHANGES » GRANDFATHERING AND PRP ELIGIBILITY EXTENSION

Currently, the NFIP provides rating options to help reduce the financial impact of map changes: Grandfathering and PRP Eligibility Extension.

PRP Eligibility Extension: Policyholders whose properties are changing from a low- or moderate-risk area to a high-risk area on new FIRMs could qualify for the Preferred Risk Policy Eligibility Extension rule that allows policyholders to retain their PRP instead of paying the new high-risk premiums. Premiums for these PRP Eligibility Extension policies will increase 20 percent each year starting October 1, 2013, until they reach the full rates for Zone X.

Grandfather Rules: Policyholders whose properties are mapped into a higher-risk area or higher BFE when new FIRMs are adopted by a community can qualify for grandfathering. This process allows policyholders to maintain their previous zone and BFE instead of shifting to the rate they could pay if the premium were calculated using the zone and BFE shown on the new FIRM. Some pre-FIRM properties were grandfathered using Zone X standard rates. These standard rates are not subsidized and thus will not increase because of the subsidy phase-out. Premiums still could increase based on actuarial analysis and the NFIP Reserve Fund.

Further guidance on grandfathered rates and premium changes required by Section 100207 of BW-12 when maps are revised or updated will be released in late 2014 at the earliest. But until then, grandfathering and PRP Eligibility Extension remain cost-saving options for eligible policyholders. According to BW-12, policyholders' whose premiums increase after a map change will see the new rates phased in by 20 percent of the total difference each year for 5 years.

RESOURCES »

BW-12 Fact Sheets and Information:
www.FEMA.gov/BW12

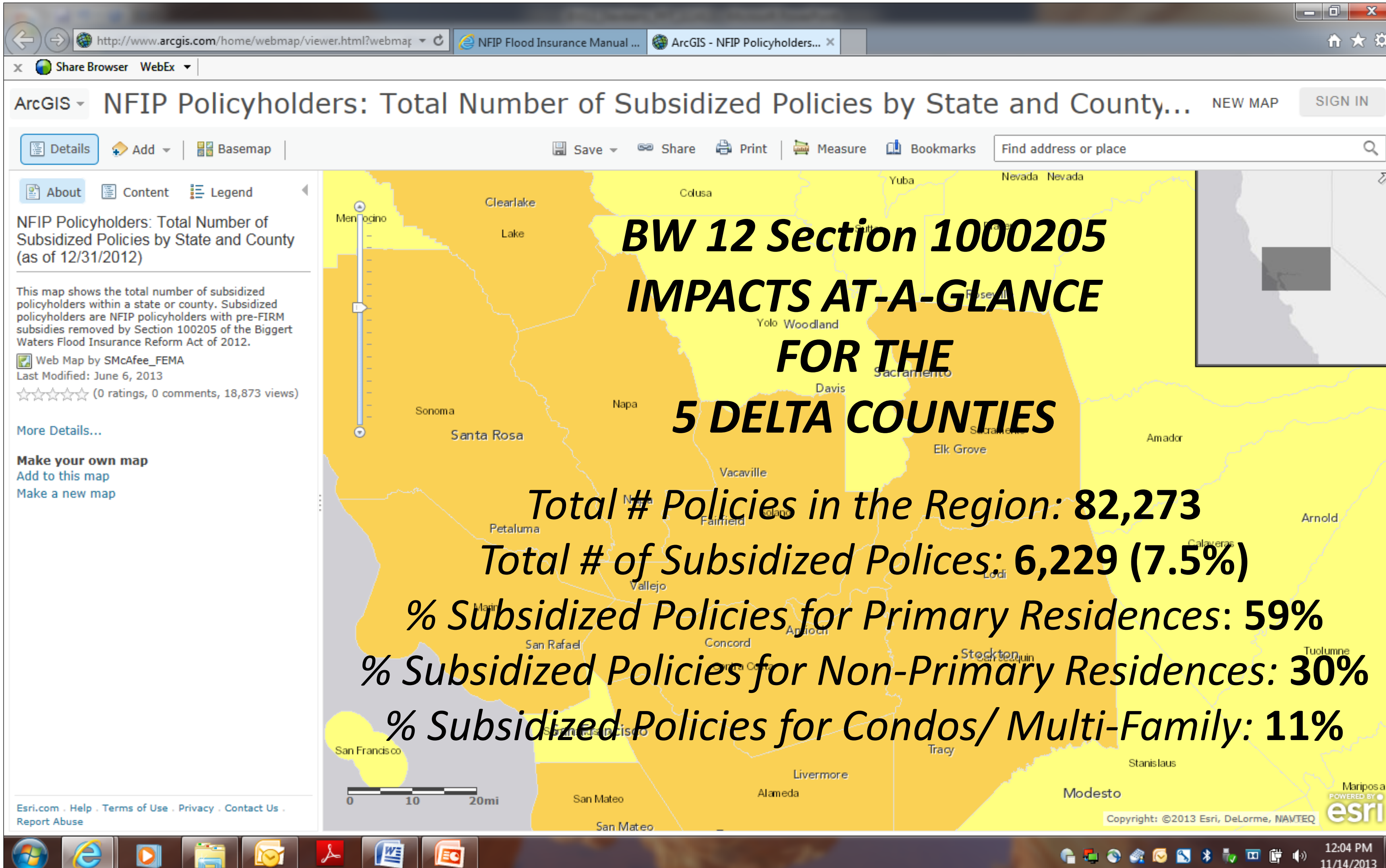
Write Your Own Company Bulletins:
www.NFIPiService.com

Flood Insurance Rate Maps:
MSC.FEMA.gov

Flood Insurance Information:
FloodSmart.gov

NFIP Interactive Website

(http://www.arcgis.com/home/webmap/viewer.html?webmap=e0208985e8e64d44bca999325254ff5b)



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NFIP Interactive Website

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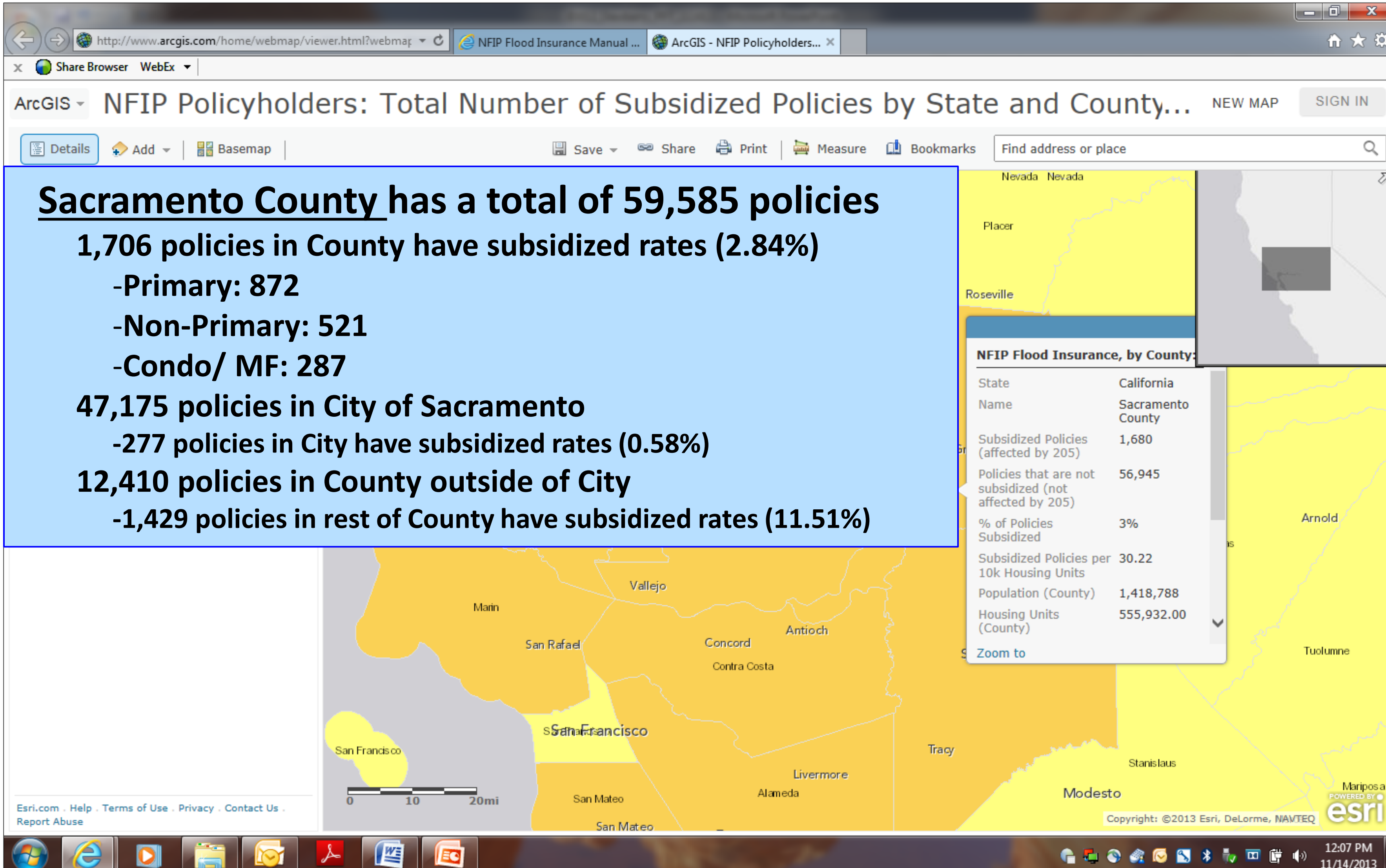

<u>Sacramento County</u> **has a total of 59,585 policies**

- **1,706 policies in County have subsidized rates (2.84%)**
  - **-Primary: 872**
  - **-Non-Primary: 521**
  - **-Condo/ MF: 287**
- **47,175 policies in City of Sacramento**
  - **-277 policies in City have subsidized rates (0.58%)**
- **12,410 policies in County outside of City**
  - **-1,429 policies in rest of County have subsidized rates (11.51%)**

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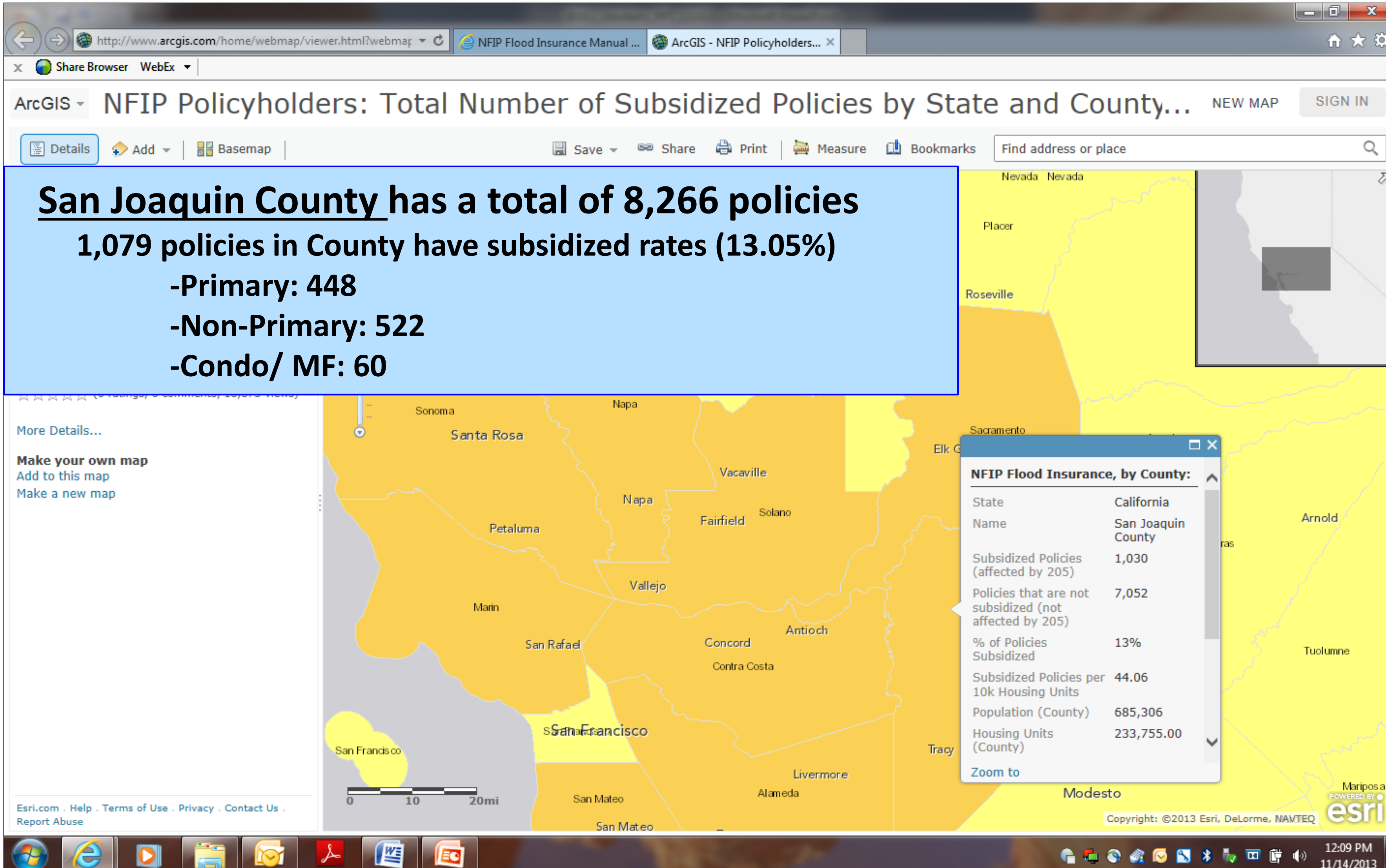
NFIP Interactive Website

(http://www.arcgis.com/home/webmap/viewer.html?webmap=e0208985e8e64d44bca999325254ff5b)

San Joaquin County has a total of 8,266 policies

1,079 policies in County have subsidized rates (13.05%)

- **-Primary: 448**
- **-Non-Primary: 522**
- **-Condo/ MF: 60**



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NFIP Interactive Website

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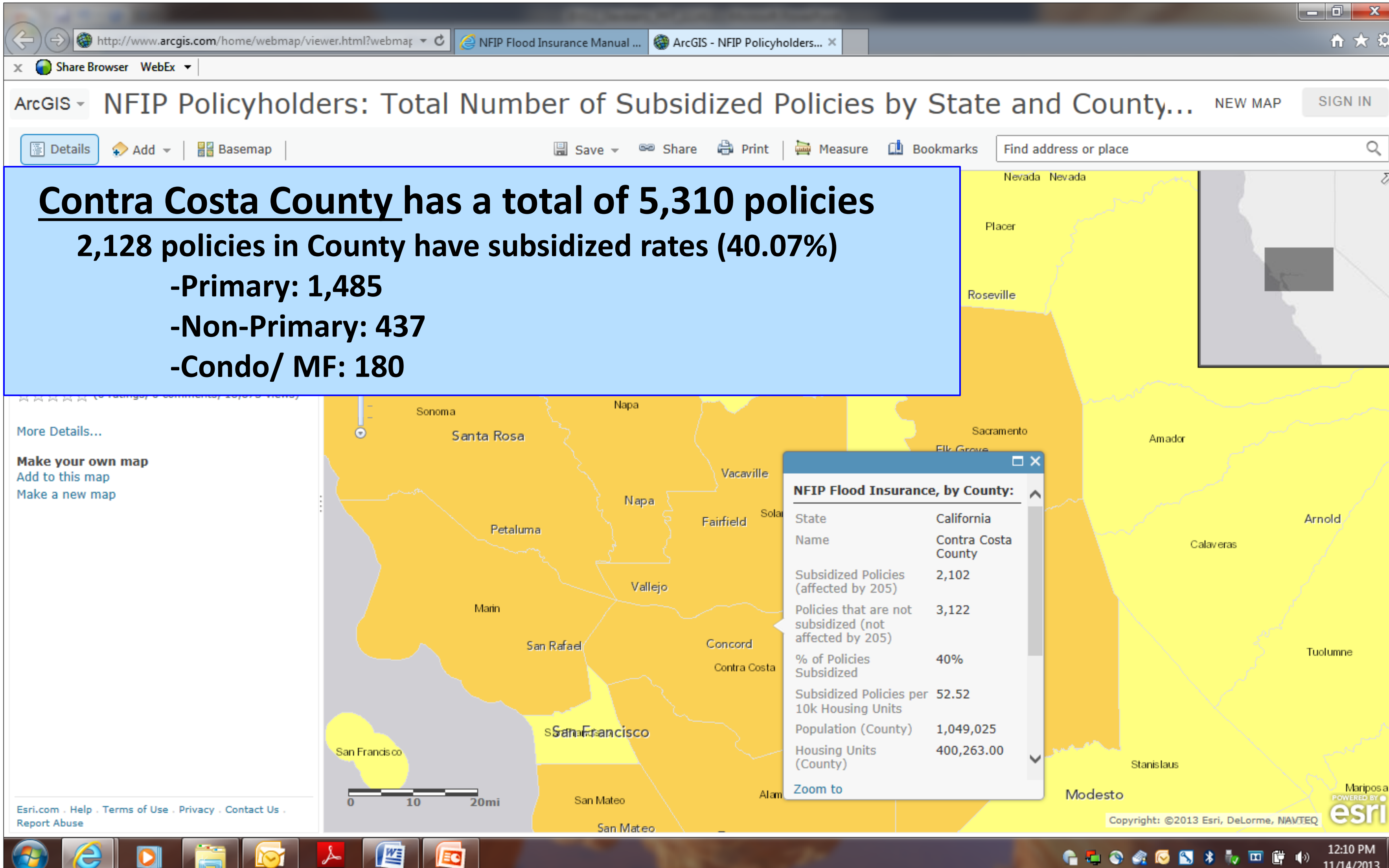

Contra Costa County has a total of 5,310 policies

2,128 policies in County have subsidized rates (40.07%)

- **-Primary: 1,485**
- **-Non-Primary: 437**
- **-Condo/ MF: 180**

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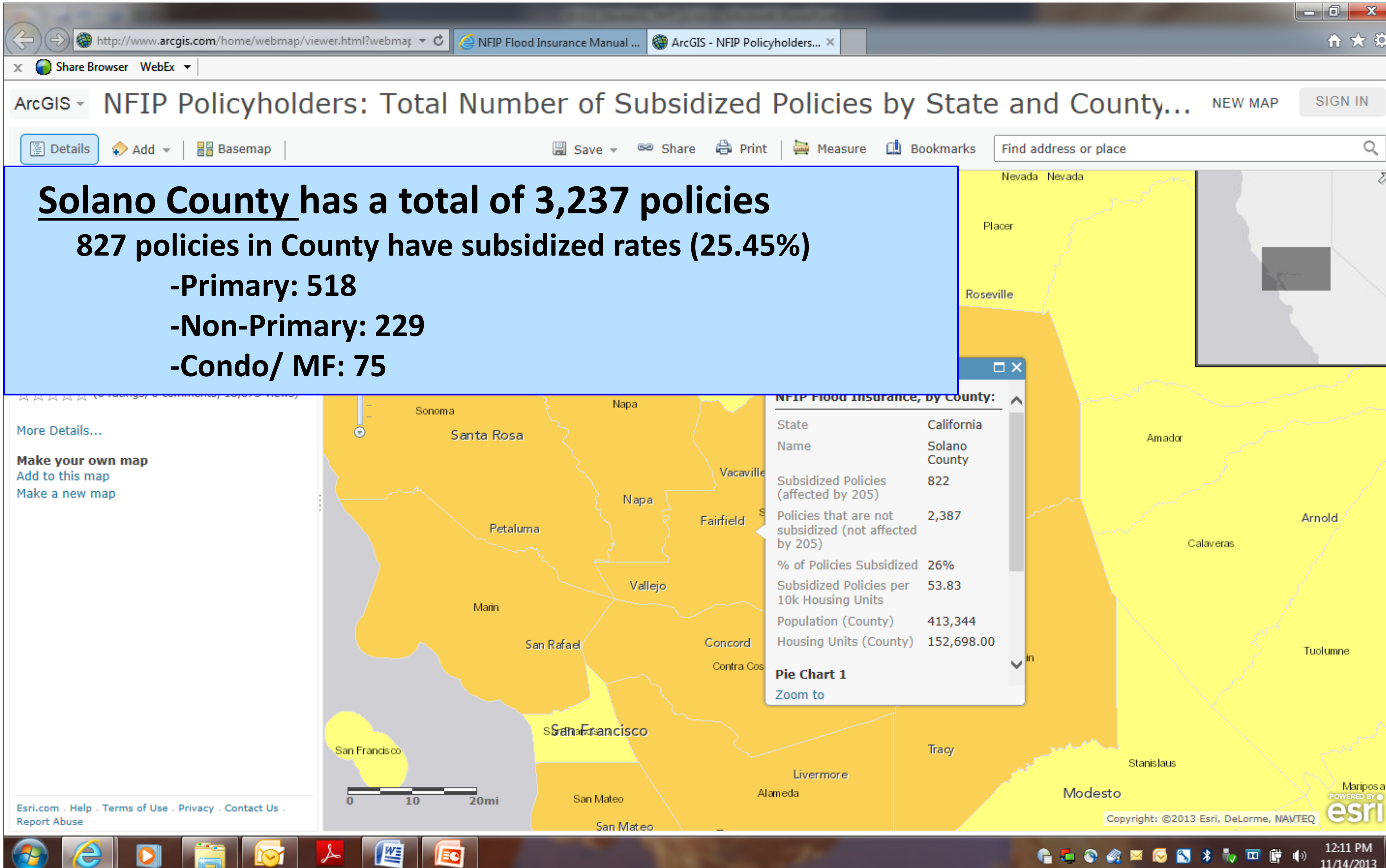
NFIP Interactive Website

(http://www.arcgis.com/home/webmap/viewer.html?webmap=e0208985e8e64d44bca999325254ff5b)



<u>Solano County</u> has a total of 3,237 policies

827 policies in County have subsidized rates (25.45%)

- **-Primary: 518**
- **-Non-Primary: 229**
- **-Condo/ MF: 75**

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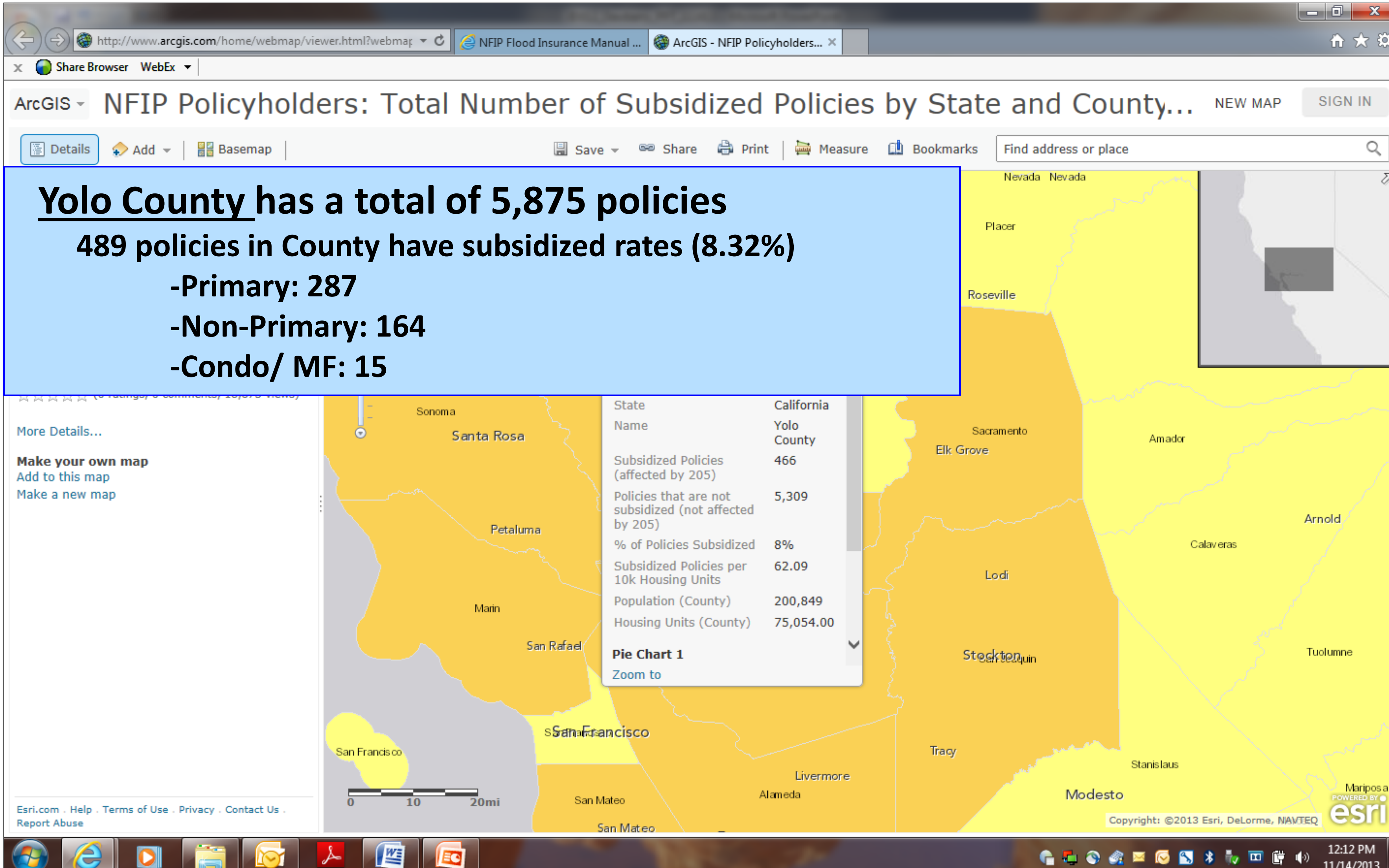
NFIP Interactive Website

(http://www.arcgis.com/home/webmap/viewer.html?webmap=e0208985e8e64d44bca999325254ff5b)



<u>Yolo County</u> has a total of 5,875 policies

489 policies in County have subsidized rates (8.32%)

- **-Primary: 287**
- **-Non-Primary: 164**
- **-Condo/ MF: 15**

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Summary of Changes to Flood Insurance Rates

- **<u>Section 207</u> addresses "grandfathered" rates**
  - FEMA is still considering how to implement Sec. 207
    - Implementation not until **Oct 2014** or delayed longer by new legislation
  - Covers **<u>primary residences</u>** upon **remapping**, including:
    - Compliant "post-FIRM" properties located in an SFHA
    - Structures built outside SFHA that were re-mapped into SFHA
    - Some pre-FIRM properties using Zone X rates (i.e., non-subsidized)
  - **Transitioning** of rates to **<u>full risk after 5 years</u>** (increase **20%/ yr**)
  - **PRP Eligibility Extension**
    - "Policy holders whose properties are changing from a low- to moderate-risk area to a high-risk area on new FIRMs could qualify for the Preferred Risk Policy (PRP) Eligibility Extension rule that allows policyholders to retain their PRP instead of paying the new high-risk premiums. Premiums for the PRP Eligibility Extension policies will increase 20% each year starting October 1, 2013 until they reach the full rates for Zone X."

Factors Affecting Phase Out Triggers

- Insurance rates
- Phase-in period
- Flood zone delineation
- Depth of flooding
- Date of construction
- Amount of insurance
- Amount of deductible
- Building type
- CRS class
- Building elevation vs. BFE

Flood Risk Expressed as Probability of Being Flooded Over the Life of a 30-Year Mortgage

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Summary of Discount Phase Out Triggers

Category of Structures	Impact	Effective Date
Non-primary / secondary residences in special flood hazard area (SFHA)	Inc to full risk rate 25% / yr	1/1/13
Severe or repeated flooding (RL/SRL)	Inc to full risk rate 25% / yr	10/1/13
Business properties in SFHA	Inc to full risk rate 25% / yr	10/1/13
Cumulative losses > building value	Inc to full risk rate 25% / yr	10/1/13
Grandfathered discounted rates	Inc to full risk rate 20% / yr over 5 years	After 10/1/14 upon adoption of new FIRM
Primary residences in SFHA	Keep PRP rate until… ……..upon which time full risk rates go into effect	Lapse in Policy, New Policy, or Repetitive Flood Insurance Claims

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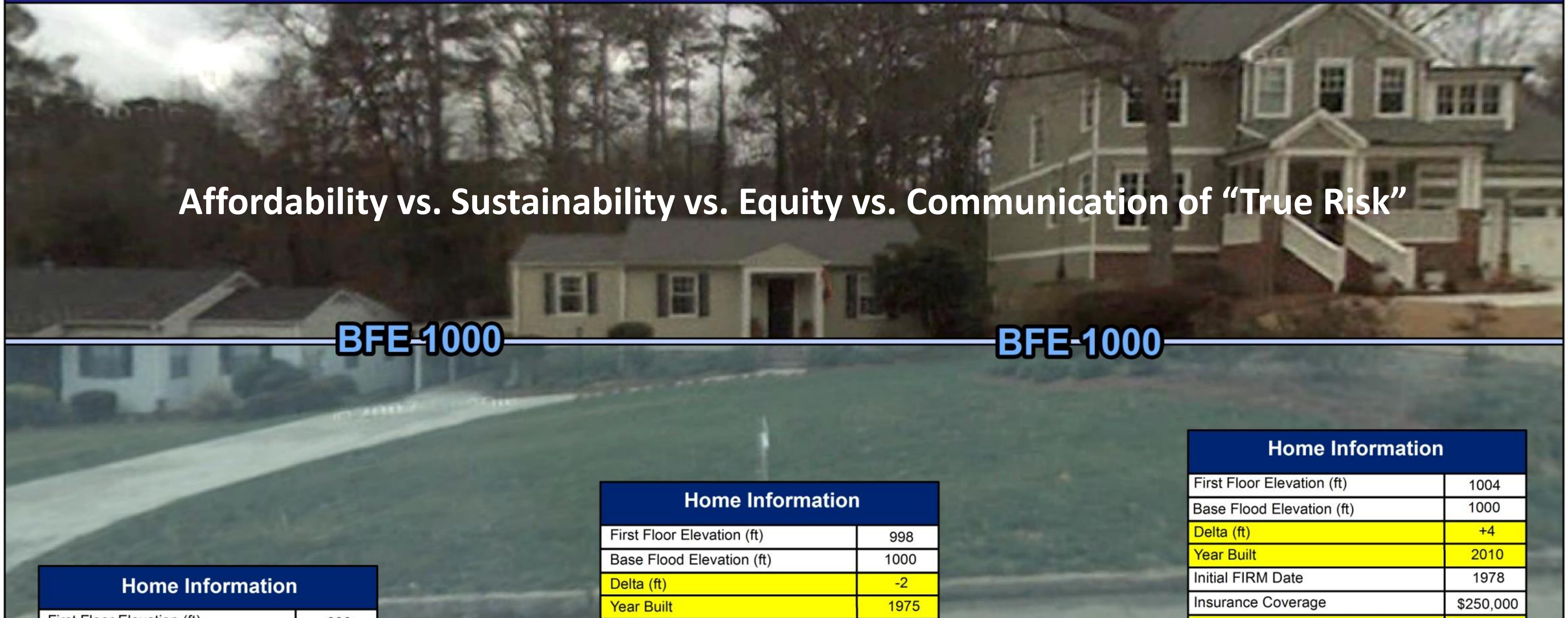
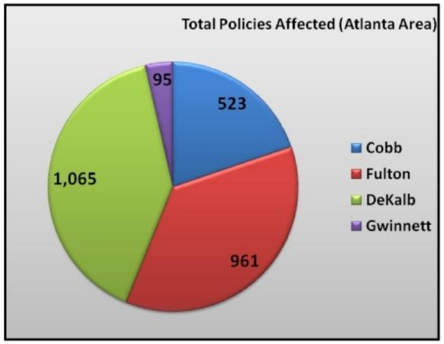
Biggert-Waters Flood Insurance Reform Act of 2012

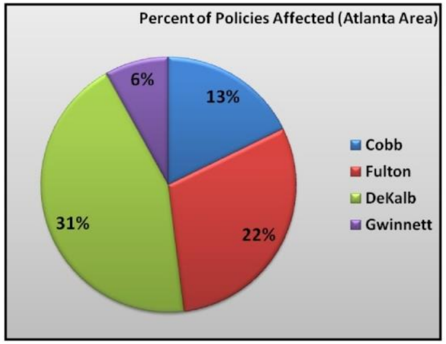


Home Information	
First Floor Elevation (ft)	996
Base Flood Elevation (ft)	1000
Delta (ft)	-4
Year Built	1957
Initial FIRM Date	1978
Insurance Coverage	$250,000
Subsidized - PreFIRM Rate Per Year	$3,000
Post BW-12 Actuarial Rate Per Year	$9,500

Home Information	
First Floor Elevation (ft)	998
Base Flood Elevation (ft)	1000
Delta (ft)	-2
Year Built	1975
Initial FIRM Date	1978
Insurance Coverage	$250,000
Subsidized - PreFIRM Rate Per Year	$3,000
Post BW-12 Actuarial Rate Per Year	$6,000

Home Information	
First Floor Elevation (ft)	1004
Base Flood Elevation (ft)	1000
Delta (ft)	+4
Year Built	2010
Initial FIRM Date	1978
Insurance Coverage	$250,000
Subsidized - PreFIRM Rate Per Year	$391
Post BW-12 Actuarial Rate Per Year	$391





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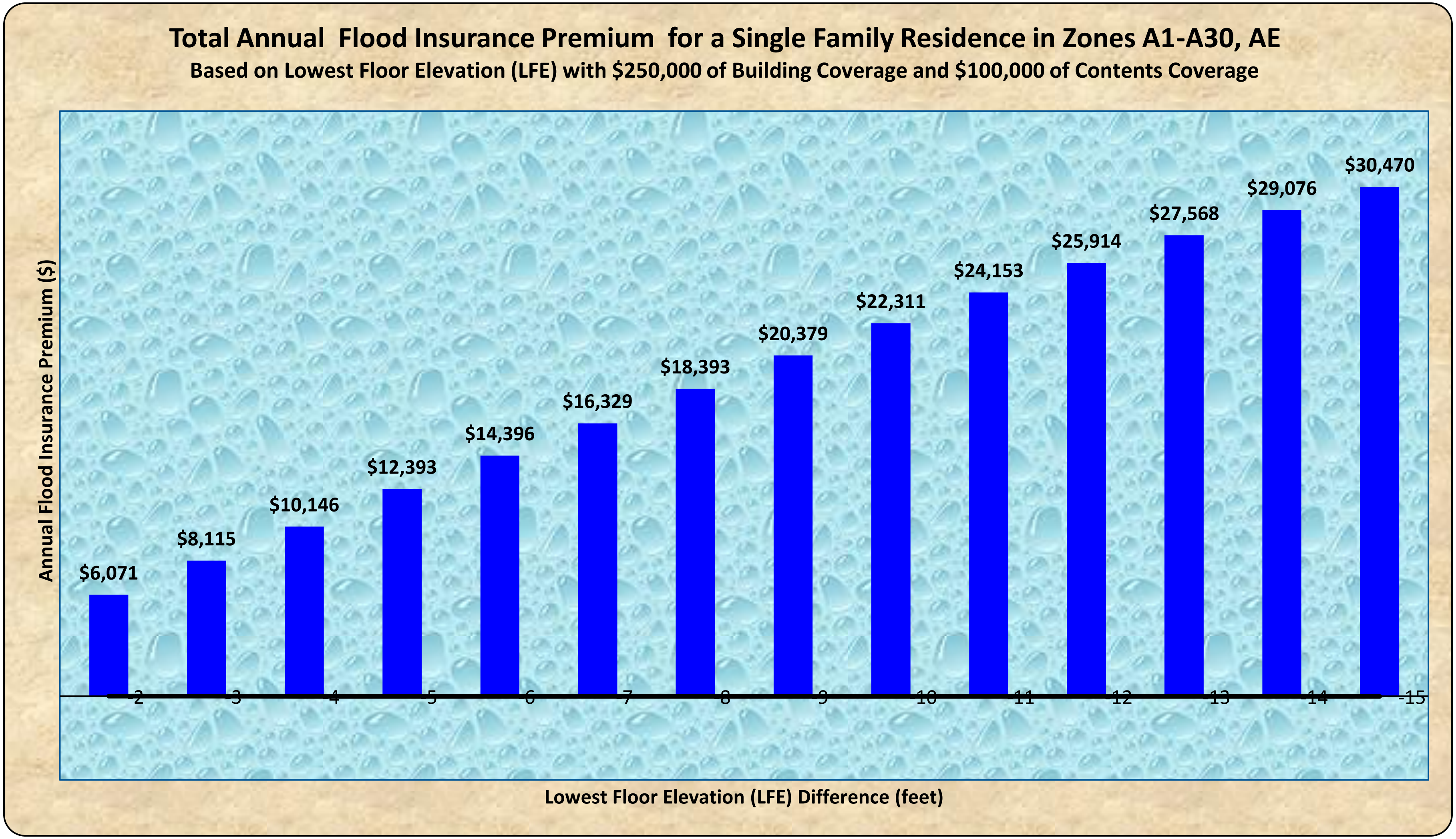
*Disclaimer - The graphic shown above is intended as an illustration of how the Biggert-Waters Insurance Reform Act of 2012 can affect certain homes. The rates provided are intended as illustrative examples and do not represent actual rates. Please visit www.floodsmart.gov for actual rates for specific homes. FloodSmart.gov

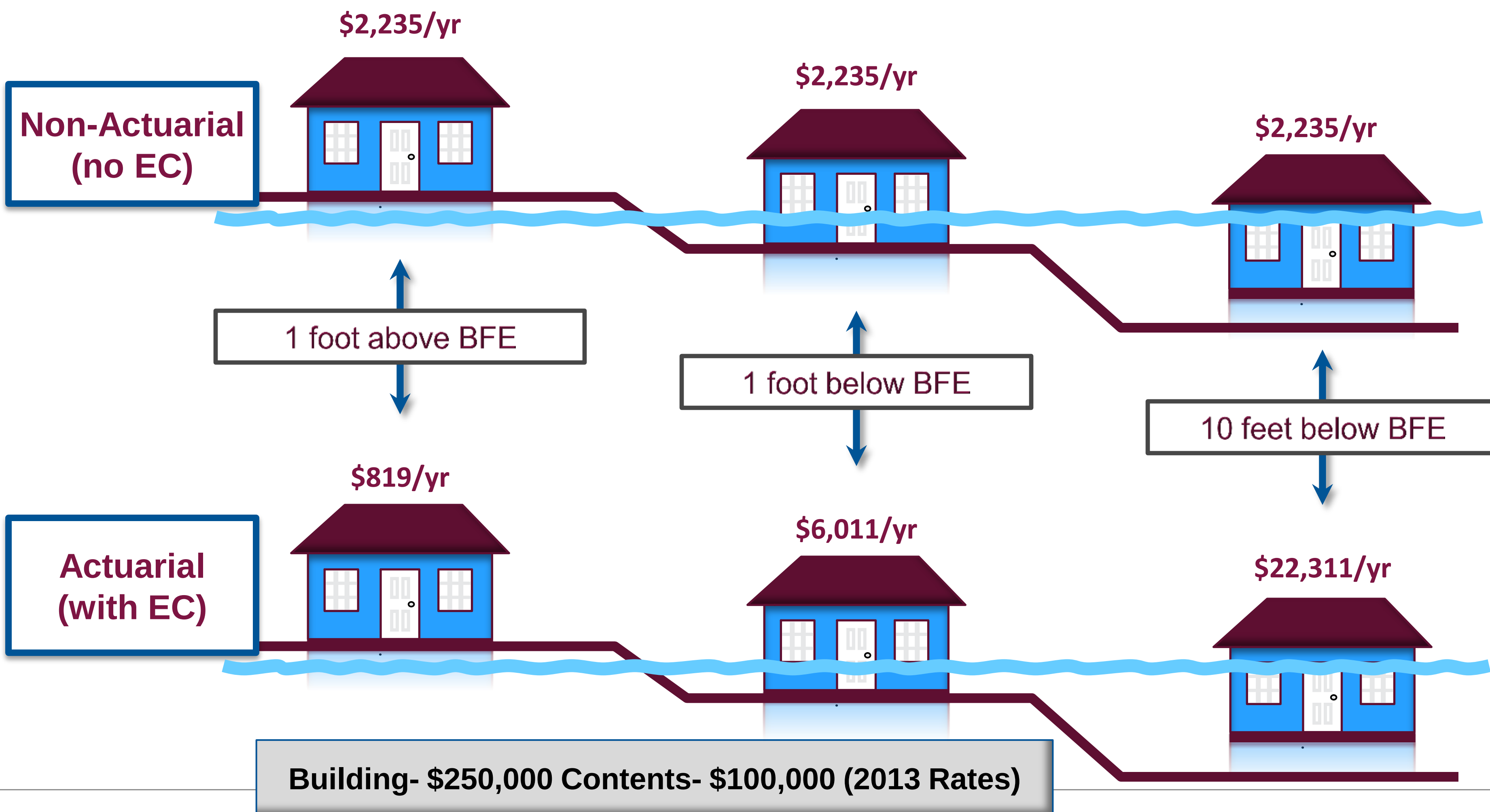
Premium Impacts Over Time



Source: FEMA's *NFIP Flood Insurance Manual*, revised as of October 1, 2013

Premium Impacts Over Time

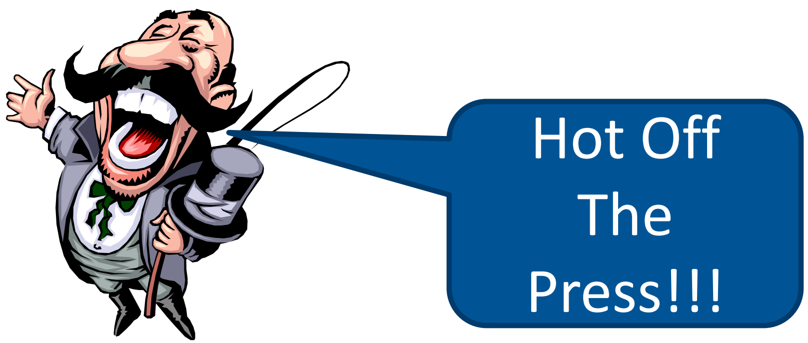
Sample Rate Comparisons (Source: FEMA's *NFIP Flood Insurance Manual*, revised as of October 1, 2013)



Potential Challenges Created

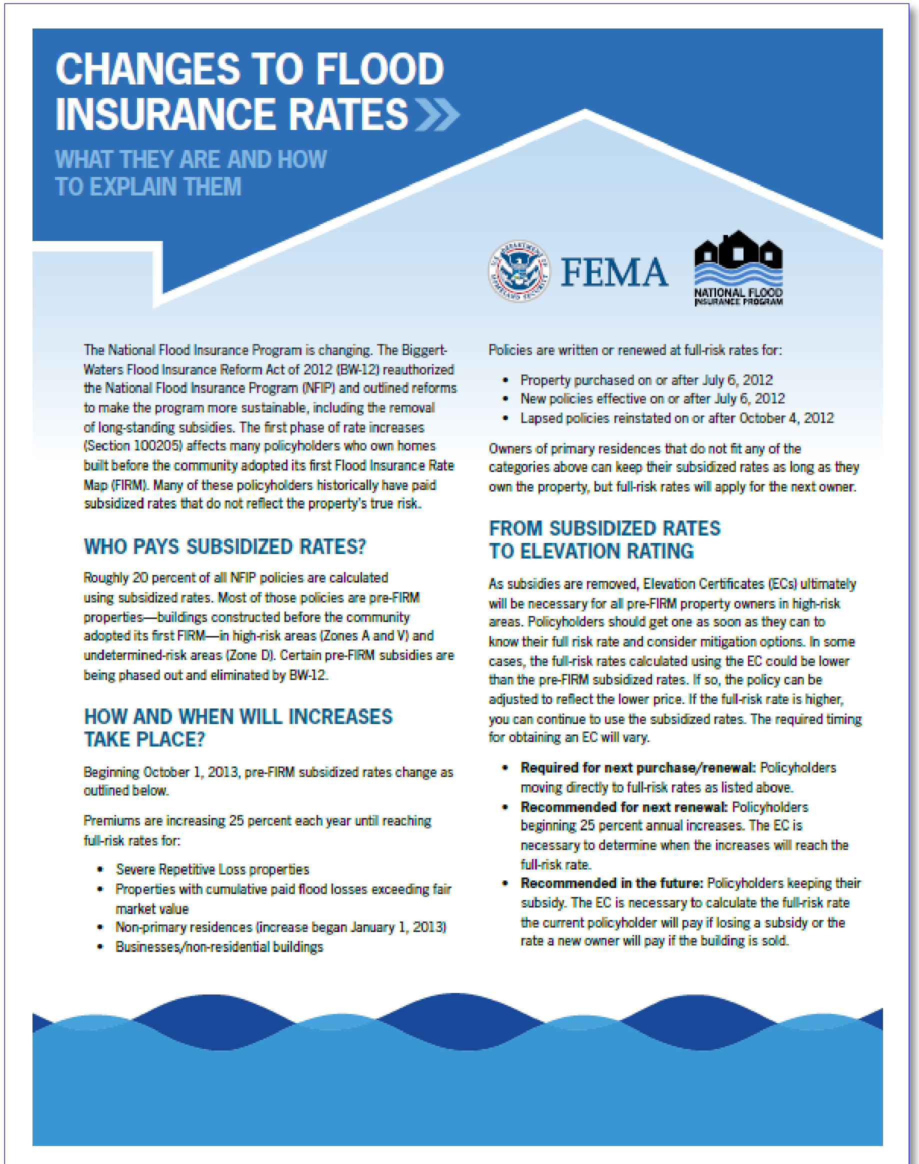
- Decreased Pool of Willing Real Estate Buyers
- Property Value Depreciation
- Increased Foreclosure Risk
- Increased Vacation Rental costs
- Increased costs for agriculture
- Reduced Tax Base
- Overall Community Economic and Political Pressure

Homeowner Flood Insurance Affordability Act of 2013 (HFIA)



"**Today** we have reached **bipartisan, bicameral agreement** on the best way to **repair the National Flood Insurance Program**. This legislation would **ensure FEMA** undertakes program changes in a way that will **not cause harm**, **by delaying implementation** until it provides Congress the facts **on how rate increases will affect homeowners**. It will also give us the information we need to **go through the program** piece-by-piece and **fix any outstanding affordability issues**."

-Congresswoman Maxine Waters
Press Release on 10/29/13



CHANGES TO FLOOD INSURANCE RATES

WHAT THEY ARE AND HOW TO EXPLAIN THEM

FEMA

NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program is changing. The Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) reauthorized the National Flood Insurance Program (NFIP) and outlined reforms to make the program more sustainable, including the removal of long-standing subsidies. The first phase of rate increases (Section 100205) affects many policyholders who own homes built before the community adopted its first Flood Insurance Rate Map (FIRM). Many of these policyholders historically have paid subsidized rates that do not reflect the property's true risk.

WHO PAYS SUBSIDIZED RATES?

Roughly 20 percent of all NFIP policies are calculated using subsidized rates. Most of those policies are pre-FIRM properties—buildings constructed before the community adopted its first FIRM—in high-risk areas (Zones A and V) and undetermined-risk areas (Zone D). Certain pre-FIRM subsidies are being phased out and eliminated by BW-12.

HOW AND WHEN WILL INCREASES TAKE PLACE?

Beginning October 1, 2013, pre-FIRM subsidized rates change as outlined below.

Premiums are increasing 25 percent each year until reaching full-risk rates for:

- Severe Repetitive Loss properties
- Properties with cumulative paid flood losses exceeding fair market value
- Non-primary residences (increase began January 1, 2013)
- Businesses/non-residential buildings

Policies are written or renewed at full-risk rates for:

- Property purchased on or after July 6, 2012
- New policies effective on or after July 6, 2012
- Lapsed policies reinstated on or after October 4, 2012

Owners of primary residences that do not fit any of the categories above can keep their subsidized rates as long as they own the property, but full-risk rates will apply for the next owner.

FROM SUBSIDIZED RATES TO ELEVATION RATING

As subsidies are removed, Elevation Certificates (ECs) ultimately will be necessary for all pre-FIRM property owners in high-risk areas. Policyholders should get one as soon as they can to know their full risk rate and consider mitigation options. In some cases, the full-risk rates calculated using the EC could be lower than the pre-FIRM subsidized rates. If so, the policy can be adjusted to reflect the lower price. If the full-risk rate is higher, you can continue to use the subsidized rates. The required timing for obtaining an EC will vary.

- **Required for next purchase/renewal:** Policyholders moving directly to full-risk rates as listed above.
- **Recommended for next renewal:** Policyholders beginning 25 percent annual increases. The EC is necessary to determine when the increases will reach the full-risk rate.
- **Recommended in the future:** Policyholders keeping their subsidy. The EC is necessary to calculate the full-risk rate the current policyholder will pay if losing a subsidy or the rate a new owner will pay if the building is sold.

Homeowner Flood Insurance Affordability Act of 2013 (HFIA)

INSURANCE JOURNAL

"Congressman Garamendi Advocates for Affordable Flood Insurance at Bipartisan Congressional Meeting"
-10/9/13 press release from Congressman Garamendi's office (similar to one from Congresswoman Matsui's office)

View this article online: http://www.insurancejournal.com/news/national/2013/10/28/309383.htm

Bipartisan Deal Reached to Delay Flood Insurance Premium Hikes: Waters

Key House and Senate members have reached a bipartisan deal to delay changes to the federal flood insurance program that are raising premiums for many homeowners. The bill would require regulators to address affordability of the coverage before implementing rate hikes.

Rep. Maxine Waters, D-Calif., ranking member of the House Financial Services Committee, announced the bipartisan legislative fix for the National Flood Insurance Program (NFIP) that she said will assure that "changes are implemented affordably."

Senators Mary L. Landrieu, D-La., Johnny Isakson, R-Ga., Robert Menendez, D-N.J., Jeff Merkley, D-Ore., Thad Cochran, R-Miss., Heidi Heitkamp, D-N.D., David Vitter, R-La., and John Hoeven, R-N.D., are among those sponsoring the legislation in the Senate.

Homeowner Flood Insurance Affordability Act of 2013 (HFIA)

- Imposes a **delay likely to total four years** for the most vulnerable properties
- Delays implementation of rate increases until two years *after* FEMA completes an **affordability study** (likely to take two years to complete)
- Delay applies to **primary, non-repetitive loss (post-FIRM) residences**
- Delay applies to **all properties sold and new policies** purchased after July 6, 2012
- Allows FEMA to utilize National Flood Insurance Funds to **reimburse** policyholders who successfully **appeal a map determination**
- **Eliminates the 50 percent cap** on state and local contributions to levee construction and reconstruction (removes federal requirement for **A99** and **AR zone** delineations)
- Protects the so-called "**basement exception**", which allows the lowest proofed opening in a home to be used for determining flood insurance rates
- Establishes a **Flood Insurance Rate Map Advocate** within FEMA to answer current and prospective policyholder questions about the flood mapping process
- Requires FEMA to **certify** that the agency has fully adopted a **modernized risk-based approach** to analyzing flood risk (as directed in the NAS report)

Source: Congress' "Section-by-Section Summary" for the proposed Grimm-Waters-Richmond (HFIA) legislation (10/29/13)

Summary

- BW 12 will change flood insurance rates dramatically for some properties
- Law designed to remove subsidizes and move rates for all properties to accurately reflect "true risk"
- Some subsidy reduction has already begun
- Full implementation of BW 12 will take years
- Understanding its impact is important
- Adaptation will be needed
- New legislation could delay or change impacts

Questions?